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Chapter No. 369

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## ***SENATE BILL NO. 2687***

Originated in Senate

*Lynell*

Secretary

SENATE BILL NO. 2687

AN ACT TO CREATE THE MISSISSIPPI DIRECT PRIMARY CARE ACT; TO PROVIDE DEFINITIONS; TO PROVIDE THAT A DIRECT PRIMARY CARE AGREEMENT SHALL NOT BE CONSIDERED TO BE AN INSURANCE PRODUCT NOR SHALL THE PRIMARY CARE PROVIDER BE CONSIDERED TO BE ENGAGING IN THE BUSINESS OF INSURANCE; TO PROVIDE THAT A PRIMARY CARE PROVIDER OR AGENT OF A PRIMARY CARE PROVIDER IS NOT REQUIRED TO OBTAIN A CERTIFICATE OF AUTHORITY OR LICENSE UNDER THE ACT TO MARKET, SELL, OR OFFER TO SELL A DIRECT PRIMARY CARE AGREEMENT; TO PROVIDE THE REQUIREMENTS FOR OFFERING A DIRECT PRIMARY CARE SERVICE AND AGREEMENT; TO PROVIDE CERTAIN REQUIREMENTS ON PRIMARY CARE PROVIDERS WHO OFFER DIRECT PRIMARY CARE SERVICES; TO AMEND SECTION 83-1-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ACT SHALL NOT BE SUBJECT TO THE JURISDICTION OF THE STATE INSURANCE DEPARTMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Sections 1 through 6 of this act shall be known as the "Mississippi Direct Primary Care Act."

**SECTION 2.** As used in Sections 1 through 6 of this act, the following words and phrases have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Primary care provider" means an individual or other legal entity that is licensed, registered or otherwise authorized to provide primary care services in this state under

Chapter 25, Title 73, Mississippi Code of 1972. Primary care provider includes an individual or other legal entity alone or with others professionally associated with the individual or other legal entity.

(b) "Direct primary care agreement" means a contract between a primary care provider and an individual patient or his or her legal representative or between a primary care provider and an employer on behalf of its employees in which the primary care provider agrees to provide primary care services to the individual patient for an agreed-upon fee and period of time.

(c) "Direct primary care service" means a service that is provided by charging a periodic fee-for-services; not billing any third parties on a fee-for-service basis for the individual covered by the direct primary care agreement; and allowing for a per visit fee to be charged to the patient at the time of service.

(d) "Primary care service" includes, but is not limited to, the screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury within the competency, training, and scope of the primary care provider. This may also include fees for advanced technology or techniques used within the practice that may offer benefits for improved patient engagement.

**SECTION 3.** A direct primary care agreement shall not be considered to be an insurance product nor shall the primary care

provider be considered to be engaging in the business of insurance for the purpose of this Title 83, Mississippi Code of 1972.

**SECTION 4.** A primary care provider or agent of a primary care provider is not required to obtain a certificate of authority or license under Sections 1 through 6 of this act to market, sell, or offer to sell a direct primary care agreement.

**SECTION 5.** To offer a direct primary care service, the primary care provider must obtain a completed direct primary care agreement for each patient obtaining direct primary care services. In order to be considered a direct primary care agreement for the purposes of this section, the direct primary care agreement must meet all of the following requirements:

- (a) Be in writing;
- (b) Be signed by the individual patient or his or her legal representative and be made available for the records of the primary care provider or agent of the primary care provider;
- (c) Allow either party to terminate the agreement on written notice to the other party;
- (d) Describe the scope of primary care services that are covered by the periodic fee;
- (e) Specify the periodic fee for ongoing care under the agreement;
- (f) Specify the duration of the agreement, any automatic renewal periods, and prohibit the prepayment of the agreement. Upon discontinuing the agreement, all unearned funds,

as determined by the lesser of normal undiscounted fee-for-service charges that would have been billed in place of the agreement or the remainder of the membership contract, are returned to the patient. Upon termination of the agreement, the patient shall not be liable for the remainder of payment associated with the agreement or membership contract. However, the patient shall be responsible for the true cost of services rendered regardless of when the contract is terminated.

(g) Prominently state in writing the following:

(i) That the agreement is not health insurance;

(ii) That the agreement standing alone does not satisfy the health benefit requirements as established in the federal Affordable Care Act; and

(iii) That, without adequate insurance coverage in addition to this agreement, the patient may be subject to fines and penalties associated with the federal Affordable Care Act.

**SECTION 6.** Those primary care providers who offer direct primary care services to their patients may not decline to accept new direct primary care patients or discontinue care to existing patients solely because of the patient's health status. A direct primary care provider may decline to accept a patient if the practice has reached its maximum capacity, or if the patient's medical condition is such that the provider is unable to provide the appropriate level and type of primary care services the patient requires. So long as the direct primary care provider

provides the patient notice and opportunity to obtain care from another physician, the direct primary care provider may discontinue care for direct primary care patients if:

- (a) The patient fails to pay the periodic fee;
- (b) The patient has performed an act of fraud;
- (c) The patient repeatedly fails to adhere to the recommended treatment plan;
- (d) The patient is abusive and presents an emotional or physical danger to the staff or other patients of the direct practice;
- (e) The direct primary care provider discontinues operation as a direct primary care provider; or
- (f) The direct primary care physician feels that the relationship is no longer therapeutic for the patient due to a dysfunctional physician/patient relationship.

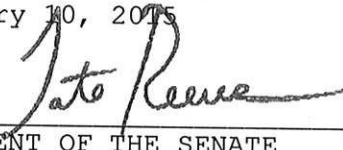
**SECTION 7.** Section 83-1-101, Mississippi Code of 1972, is amended as follows:

83-1-101. Notwithstanding any other provision of law to the contrary, and except as provided herein, any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the State \* \* \* Insurance Department, unless

(a) the person or other entity shows that while providing such services it is subject to the jurisdiction of another agency of this state, any subdivisions thereof, or the federal government;  
or (b) the person or other entity is providing coverage under the Direct Primary Care Act in Sections 1 through 6 of this act.

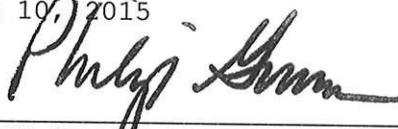
**SECTION 8.** This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE SENATE  
February 10, 2015



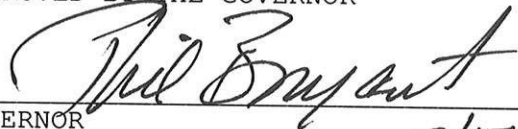
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 10, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/17/15  
2:45pm